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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,476	06/19/2006	Christophe Martin	1032326-000394	3680
21839 7590 02/11/2009 BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404				
EXAMINER KUDDUS, DANIEL A				
ART UNIT 2164		PAPER NUMBER		
NOTIFICATION DATE 02/11/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary

Application No.

10/583,476

Applicant(s)

MARTIN ET AL.

Examiner

DANIEL KUDDUS

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 07/24/06 & 08/19/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

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1. This action is responsive filed on Jun 19, 2006. Claims 1-10 are pending and have been considered below.

Objection

2. Claims 1-10 are objected to because of the following informalities:

In claim 1 “method of backing up...” should read as “A computer implemented method of backing up”.

Claims 2-7 and 10 are objected because claim recites limitations are indefinite and it lacks proper antecedent basis (e.g. claims 2-7, ‘method’, claim 10, ‘portable device’).

Appropriate correction is required.

Any claim not specifically addressed, above, is being objected as incorporating the deficiencies of a claim upon which it depends.

Specification is objected, because it does not have any drawing sheet. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections- 35 USC § 112 2nd Paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 8, and 9, they all recites the limitation of "the data" (e.g. claim 1, line 2), "the user" (e.g. claim 1, line 9) is ambiguous and it lacks antecedent basis. There is insufficient antecedent basis for these limitations in the claims.

Claim 5 recites the limitation of "STK" in line 2 is vague, as there no antecedent basis. The term "STK" is not defined by the claim and the specification does not provide a standard for ascertaining degree and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

In claims 8 and 9, recites limitation of "being able to" and "can" (e.g. being able to, claim 8, line 3, "can transmit", claim 9, line 3) is indefinite and one of ordinary skill in the art would not reasonably apprised of the scope of the invention.

Any claim not specifically addressed, above, is being rejected as incorporating the deficiencies of a claim upon which it depends.

Claim Rejections - 35 USC § 102

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 and 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Ludwig et al. (US 2004/0107254 A1), hereinafter Ludwig.

As for claim 1, Ludwig teaches method of backing up personal data of a wireless communication network subscriber (see ¶ [0047], network environments accommodating thousands of users), the data being memorised in a mobile communication device and backed up in a network server (see ¶ [0292], expert accesses this recorded meeting from his corporate memory, [0008], portable personal computers, [0042], teleconferences may be recorded and stored for later playback, including both audio/video and all data interactions), in which a first subset of data is prepared from among a batch of data to be backed up and is transmitted to the server for backing up (see ¶ [0156], caller's image also appears on his/her own screen in a video mosaic, which will also include images of subsequently added participants), wherein said method includes an asynchronous backup mode in which, once a

subset has been transmitted to the server (see ¶ [0005], the expert must communicate asynchronously--to bridge time as well as distance), the backup is delayed by a certain period of time so as to free the mobile device for the user (see ¶ [0051], accommodates both "real time" delay and jitter-sensitive signals (e.g., real-time audio and video teleconferencing) and classical asynchronous data (e.g., data control signals as well as shared textual, graphics and other media) communication among multiple CMWs regardless of their location), and the backup is resumed at the end of this period (see ¶ [0139], the remote participant on hold, to resume a call on hold, to add one or more participants to the call, to initiate data sharing and to hang up the call).

Claim 8 have the same subject matter as claim 1 except for the limitation of server for backing up and Ludwig teaches such limitation (see ¶ [0061], MLAN server supports the TCP/IP network protocol suite. Accordingly, software processes on CMWs communicate with one another and MLAN server via MLAN using these protocols, [0156], [0091]). Therefore, claim 8 is rejected for the same reason as applied to claim 1 hereinabove.

Claim 9 have the same subject matter as claim 1 except it is directed to portable wireless communication device and Ludwig teaches such limitation (see ¶ [0008], portable personal computer) and is rejected for the same reason as applied to claim 1 hereinabove.

As for claim 10, Ludwig teaches wherein said device selectively operates according to an asynchronous backup mode and a normal mode (see ¶ [0046], collaboration session--whether real-time or asynchronous--may include participants whose equipment provides capabilities ranging from audio only (a telephone) or data only (a personal computer with a

modem) to a full complement of real-time, high-fidelity audio and full-motion video, and high-speed data network facilities).

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ludwig et al. (US 2004/0107254 A1) and further in view of Van Reenen, Ian, Carel et al. (WO 03/037015 A1), hereinafter Van.

As for claim 2, Ludwig teaches claimed invention except for the limitation of chip card. Van teaches such limitation (see page 2, SIM card, line 1).

Ludwig teaches a method for the plurality of users with collaboration initiation software at their communication devices and allowing at least first and second users to connect to at least one communication network by logging in at their respective communication devices (abstract),

while Van teaches a method of backing up data in a mobile telephone, in which data is transmitted from the telephone device to a storage means via a telephone network (abstract). One of ordinary skill in the art at the time of the invention would have been motivated to include the features as taught by Van to improve the plurality of users with collaboration initiation software at their communication devices of Ludwig to an application software for the telephone device for controlling connection to the back up facility and the transfer of data to and from the back up storage means.

Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to have modified the teaching of Ludwig by applying the teaching of Van to provide an application software for the telephone device for controlling connection to the back up facility and the transfer of data to and from the back up storage means. Further, data transfer in an encryption manner (see Van, page 2 and 3).

As for claim 3, Ludwig teaches wherein, in order to resume the backup, the mobile device implements a countdown of the period and sends a resume signal to a chip card in the mobile device at the end of said period (see ¶ [0150], this message could advise the caller when the call will be resumed, or could state that the call is being terminated and will be reinitiated at a later time, [0294]).

As for claim 4, Van teaches wherein the mobile implements the countdown and sends the resume signal upon receiving an instruction from the chip card (see page 2, line 2-5).

As for claim 5, Van teaches wherein the chip card gives instructions to the mobile device by means of STK commands (see page 2, line 14-17).

As for claim 6, Ludwig teaches wherein the chip card gives instructions by means of 'GET STATUS' commands (see ¶ [0150], a call on hold can conveniently be resumed by the caller clicking on a resume button on the active call window, which returns the corresponding callhandle back to the active state).

As for claim 7, Ludwig teaches a prior assessment step which determines whether the volume of data to be backed up or the corresponding waiting time required to make the mobile device available to the user is higher than, if so, the backup is performed according to the asynchronous backup mode (see ¶ [0045], the system architecture employs separate real-time and asynchronous networks--the former for real-time audio and video, and the latter for non-real-time audio and video, text, graphics and other data, as well as control signals, [0237], this audio/video file gets transferred over the data network to the client workstation and pre-staged on the workstation's local disk, [0238], a higher number of simultaneous recording sessions), if not, the backup is carried out according to a default mode (see ¶ [0045], separate real-time and asynchronous networks--the former for real-time audio and video, and the latter for non-real-time audio and video, text, graphics and other data, as well as control signals, [0240], [0243]).

Ludwig does not explicitly teach a predetermined threshold. Although Ludwig teaches (see [0065], after determining which of these conferees will accept the call, MLAN server controls A/V switching circuitry). Van teaches such limitations (see page 11, claim 22, predetermined manner).

Conclusion

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6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Daniel A Kuddus whose telephone number is (571) 270-1722. The examiner can normally be reached on Monday to Thursday 8.00 a.m.-5.30 p.m. The examiner can also be reached on alternate Fridays from 8.00 a.m. to 4.30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or processing is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from the either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel Kuddus

Date: 02/02/09

/Charles Rones/
Supervisory Patent Examiner, Art Unit 2164